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7	UNITED STATES DISTRICT COURT WESTERN DISTRICT OF WASHINGTON	
8	AT SEATTLE	
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10	FRANCIS ANTHONY TREVINO, et al.,	CASE NO. C18-0487JLR
11		ORDER
12	Plaintiffs,	
	V.	
13	KEVIN W. QUIGLEY, et al.,	
14	Defendants.	
15	On April 17, 2018, the court ordered Plaintiffs Francis Anthony Trevino and Mark	
16	Newton Kelly (collectively, "Plaintiffs") to show cause why their claims against Spokane	
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18	County Superior Court Judge Gregory D. Sypolt; Spokane County Superior Court Judge	
19	James M. Murphy; Washington State Supreme Court Clerk Erin L. Lennon; and	
20	Washington State Supreme Court Clerk Susan L. Carlson (collectively, "Judicial	
21	Defendants") should not be dismissed. (See OSC (Dkt. # 3).) The court noted that "the	
22	allegations in the complaint suggest that Judicial	Defendants are entitled to some form of

judicial immunity, and therefore the court has no subject matter jurisdiction as to those 2 defendants." (Id. at 2.) The court informed Plaintiffs that judges are absolutely immune 3 for acts taken in their judicial capacity and that judicial clerks enjoy quasi-judicial 4 immunity when acting in their official capacities. (*Id.* at 3 (citing Ashelman v. Pope, 793) 5 F.2d 1072, 1075 (9th Cir. 1986) (en banc); In re Castillo, 297 F.3d 940, 951-52 (9th Cir. 6 2002)).) The court further stated that Plaintiffs did not allege Judicial Defendants were 7 acting outside their official capacities for the acts of which Plaintiffs complain. (*Id.*) 8 In their response to the court's order to show cause, Plaintiffs have not established 9 that the court has subject matter jurisdiction over Judicial Defendants. Indeed, their 10 allegations regarding Ms. Lennon and Ms. Carlson relate only to those defendants' 11 official capacities as judicial clerks. (OSC Resp. (Dkt. # 5) at 8 (stating that Ms. Lennon "responded with the answer—'I will place your motion in the "unfiled-papers" 12 13 drawer.""); id. (alleging that Ms. Carlson stated Mr. Kelly "cites to no authority that 14 non-adherence to a court order requiring completion of sanity commission proceedings under R.C.W. 10.77.060 within a specific time[] frame implicates the jurisdiction of the 15 court or otherwise requires dismissal"). In addition, as to Judges Sypolt and Murphy, 16 Plaintiffs state only that the judges "both acted upon the usurped authority"—a 17 18 conclusory allegation insufficient to show the judges acted without jurisdiction or outside 19 of their judicial function. (Id. at 10 (underlining omitted)); see also Ashelman, 793 F.2d 20 at 1075. Thus, Plaintiffs fail to establish the court's subject matter jurisdiction over 21 22

Judicial Defendants, and the court DISMISSES Plaintiffs' claims against those defendants without prejudice. Dated this 8th day of May, 2018. R. Rlut JAMES L. ROBART United States District Judge